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Don't Make The C.I.A. A K.G.B.

By Harry Howe Ransom

NASHVILLE — President Reagan's executive order issued Dec. 4 assigns a domestic-spying role to the Central Intelligence Agency. This departs radically from the agency's founding principles. It is inconsistent with statutory law, ignores tradition, and will weaken the intelligence system while endangering civil liberties.

When a central intelligence system was proposed in 1947, Congress was alarmed by the specter of an American Gestapo. So it fashioned a statute stipulating that "the Agency shall have no police, subpoena, law-enforcement powers, or internal-security functions." After 34 years, this unamended law stands as a monument to rejection of a secret political-police system.

The founders of the C.I.A. intended only a foreign role for it. In his first written proposal, in 1941, William J. Donovan stipulated that a central agency be financed "solely for the purpose of foreign investigation." He insisted that it not duplicate the "home duties" of the Federal Bureau of Investigation.

All significant proposals leading to the C.I.A.'s founding charter, in 1947, contained prohibitions against internal espionage. For example, the "Donovan plan" submitted to Franklin D. Roosevelt on Nov. 13, 1944, states that a central agency "shall have no police or law enforcement functions, either at home or abroad." A Joint Chiefs of Staff proposal, on Sept. 18, 1945, was similarly restrictive. When Harry S. Truman created a Central Intelligence Group in 1946, he stipulated

that "no police, law enforcement or internal security functions shall be exercised under this directive."

In Senate hearings in 1947, Gen. Hoyt Vandenberg, then director of a temporary civilian intelligence unit, calmed senators' fears by declaring "the prohibition against police power or internal security functions will assure that the Central Intelligence Group can never become a Gestapo or security police." The House was alarmed by the testimony of a Marine general, Merritt Edson, that creation of a C.I.A. "opens the door to a potential Gestapo." He feared that such an agency might engage in espionage within the United States.

Reacting to those fears, the House carefully spelled out the agency's functions, incorporating a clause prohibiting internal-security functions. Without controversy, the Senate accepted the House version explicitly outlawing domestic operations.

But the issue remained unsettled, because soon after the C.I.A. was created, in 1947, bills were introduced to permit it a secrecy so absolute that accountability might be impossible. The director was to be allowed to spend money secretly and to conceal information from the public and even from Congress. Secret hearings on this proposal were held by the House and Senate. It was approved in 1949 after members were convinced that the bill added in no way to the functions authorized in 1947. "Bear in mind," the bill's House floor manager had said, "that the C.I.A. is prohibited by law from any internal security functions." In Senate debate, William Langer said he wished to take no chances "against the establishment of a Gestapo in the United States." Edwin C. Johnson termed the proposal "very radical legislation" and warned that the agency "might send its men inside the United States."

The Senate bill's floor manager, Millard Tydings, was reassuring. He said that "the pending bill . . . has nothing to do with the internal affairs of the United States. All these men work outside of the United States . . . they cannot work in the United States." Having been promised that the agency would not spy on Americans, Congress approved provisions for exceptional secrecy.

As a member of a Presidential commission headed by Vice President Nelson A. Rockefeller, in 1973, Ronald Reagan signed its report, which deplored the alarming "deviation" from its charter by accumulating secret dossiers on thousands of Americans. Operation CHAOS

had severely damaged the agency's legitimacy. The report cited the C.I.A.'s violation of its charter and urged future Presidents never to assign the agency to domestic spying.

That was sound advice, because it recognized that efficiency inheres in preserving a distinction between the C.I.A. and F.B.I. More important is the point that the C.I.A.'s founders unquestionably intended the agency to be restricted to foreign areas. They understood the dangers posed to the Bill of Rights by a nascent secret police.

To assign internal espionage to the C.I.A. makes it resemble the Soviet Union's K.G.B., a police-state agency combining domestic and foreign spying. C.I.A. operations should be kept outside the country's borders. Despite the intent of the C.I.A.'s founders, its charter remains ambiguous. Congress must legislate a revised charter that clearly prevents any President from allowing the C.I.A. to spy on Americans at home.

Harry Howe Ransom, professor of political science at Vanderbilt University, is author of "The Intelligence Establishment."